THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24063 of 2006

Dated: 17.01.2007

Between:

Syed Mohiuddin Afzal.

..... PETITIONER

AND

The Joint Collector, Ranga Reddy District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24063 of 2006

ORDER:

This writ petition is filed assailing the memo No.F1/4392/2006 dated 09.09.2006/11.10.2006 passed by respondent No.1, namely, the Joint Collector. At the stage of admission itself, this Court heard the learned counsel for the petitioner, the learned Assistant Government Pleader for Revenue (General-T) and the learned counsel for respondent No.3.

On an application made by respondent Nos.3 to 5 for grant of Occupancy Rights Certificate (ORC) under Section 7 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity), respondent No.2, namely, the Revenue Divisional Officer (RDO), by proceedings No.J/8692/93 dated 22.12.1998 granted ORC in their favour. Aggrieved by the same, the petitioner preferred an appeal under Section 24 of the Act before the Joint Collector. The same was dismissed for default on 13.09.2004. The petitioner thereafter moved an application to restore the appeal, which was dismissed for default, and the same was again dismissed by the impugned order dated 09.09.2006/11.10.2006 on the ground that it is time barred. The petitioner contends that when the application is time barred, it is incumbent on the part of respondent No.1 to return the application with liberty to file appropriate application for condonation of delay.

As rightly pointed out by the learned counsel for the petitioner, when the Joint Collector dismisses the appeal for default, a person aggrieved can always move an application to restore the appeal. When the same was not presented properly - in this case with an application for condonation of delay; return of the application would have been preferred to dismissing the application itself as time barred. Reading Section 24 of the Act it becomes clear that the person aggrieved by the order passed under Section 10 of the Act by RDO, can prefer an appeal within sixty days or during such time as may be allowed by the Joint Collector. Therefore, jurisdiction vests in the Joint Collector to accept the appeals or the applications with delay. This exercise was not properly done by the appellate authority. On this reason alone, the impugned order cannot be sustained. In view of the above, the impugned order dated 09.09.2006/11.10.2006 is set aside and the application filed by the petitioner for restoration of the appeal, which was dismissed for default on 13.09.2004, is restored to the file of the Joint Collector, who is directed to dispose of the same after giving notice to respondent No.3 and the legal representatives of respondent Nos.4 and 5. Be it made clear that this Court has not expressed any opinion on the

validity or legality of ORC issued to respondent Nos.3 to 5 or the right of the petitioner to claim ORC.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

17th January, 2007
ghn